

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

LONNIE N. HAYES, #409723

§

VS.

§

CIVIL ACTION NO. 9:05cv93

DOUG DRETKE, ET AL.

§

ORDER OF DISMISSAL

Plaintiff Lonnie N. Hayes, an inmate confined in the Texas prison system, proceeding *pro se*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The complaint was referred to United States Magistrate Judge Harry W. McKee, who issued a Report and Recommendation concluding that the lawsuit should be dismissed. The plaintiff has filed objections.

The Report and Recommendation of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the plaintiff, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections by the plaintiff are without merit. The plaintiff's lawsuit concerns the loss of his property, and the established case law clearly holds that a Texas prison inmate does not have a basis for potentially meritorious civil rights lawsuit concerning property claims. *See, e.g., Murphy v. Collins*, 26 F.3d 541, 543 (5th Cir. 1994). The Report and Recommendation thoroughly reviewed the case law showing that property claims are frivolous. Such claims are to be pursued in state court, as opposed to federal court. Therefore the findings and conclusions of the Magistrate Judge are adopted. It is accordingly

ORDERED that the cause of action is **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915A(b)(1). All motions by either party not previously ruled on are hereby **DENIED**.

So **ORDERED** and **SIGNED** this **29** day of **November, 2005**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge